



Transportation
Security
Administration

OFFICE OF FINANCE AND ADMINISTRATION
Property Management Division

TSA MANAGEMENT DIRECTIVE No. 200.58
GIFT ACCEPTANCE AUTHORITY

To enhance mission performance, TSA is committed to promoting a culture founded on its values of Integrity, Innovation, and Team Spirit.

REVISION: This revised directive supersedes TSA MD 200.58, *Non-Monetary Gifts to TSA*, dated July 28, 2014.

SUMMARY OF CHANGES: The title has been amended to reflect TSA's delegated authority to accept monetary gifts in addition to TSA's internal authority to accept non-monetary gifts. In Sections 3 and 4, Authorities and Definitions, respectively, added the authority to accept, clarified the definition of gifts, including monetary gifts and added the definition for Gift Card. Section 6, Policy, added documentation requirements.

- 1. PURPOSE:** This directive establishes TSA policy and procedures for the acceptance of gifts to TSA from outside sources. This directive does not govern gifts from other Federal agencies or foreign governments, nor does it address gifts offered to individual TSA employees, which are governed by the standards of ethical rules (5 CFR Part 2635). This directive does not apply to gifts of travel and transportation that may be accepted from a non-Federal source under 31 U.S.C. § 1353; see [TSA MD 1000.8, *Payment of Official Travel Expenses by Non-Federal Sources*](#), for additional guidance.
- 2. SCOPE:** This directive applies to all TSA organizational elements and employees.
- 3. AUTHORITIES:**
 - A. 49 U.S.C. §§ 114(m) (1) and 106(m) of the Aviation and Transportation Security Act (ATSA; Pub.L. 107-71, Nov. 19, 2001).
 - B. Section 507 of Public Law 108-90, DHS Appropriations Act of 2004.
 - C. [DHS Directive 112-02, *Gifts to the Department of Homeland Security*](#).
 - D. [DHS Instruction 112-02-001, *Instruction Guide on Gifts to the Department of Homeland Security*](#).
 - E. [DHS Delegation Number 0006, *Delegation to Accept and Utilize Gifts to the Department*](#).
 - F. [DHS Management Directive 119-03, *Personal Property Asset Management Program*](#).
 - G. [TSA MD 200.57, *Personal Property Management*](#).

4. DEFINITIONS:

- A. Gifts: Refers to any tangible or intangible item, donation, bequest or devise of money, including checks, money orders, other forms of negotiable instruments, and the use of services, equipment, personnel, and facilities.

NOTE: Gifts may be either conditional (i.e. limitations on ownership and/or use by TSA) or unconditional (i.e., no limitations). TSA may accept unconditional and conditional non-monetary gifts (e.g. service, equipment, personnel, or facilities) from outside sources under ATSA. However, for gifts of money, TSA must follow additional DHS policies and instructions, including review by the Office of General Counsel prior to acceptance when it is a conditional gift.

- B. Fair Market Value (FMV): The best estimate of the cost of an item if the property were to be sold in a public sale between a willing buyer and a willing seller.
- C. Gift Acceptance Authority: The individual with responsibility for making a decision regarding the acceptance or rejection of any particular gift. (*see* Section 5)
- D. Gift Card: A prepaid stored-value money card usually issued by a retailer or bank to be used as an alternative to cash for purchases within a particular store or related business.
- E. Non-Monetary Gifts: Contributions in the form of services, equipment, personnel, or facilities from any public or private entity that do not come in the form of cash, cash-equivalents, or other gifts that may be accepted under another statutory authority.

NOTE: Non-Monetary gifts may be either conditional (i.e., limitations on ownership and/or use by TSA) or unconditional (i.e., no limitations).

- F. Monetary Gifts: Any checks, money orders, other forms of negotiable instruments. In addition, general-use prepaid cards redeemed at multiple, unaffiliated merchants or service cards and generally bear the payment of a payment network, and are accepted by any merchant that accept those credit or debit cards as payment will be considered a monetary gift. In contrast, store gift cards can be redeemed at one merchant or an affiliated group of merchants for goods or services and do not allow the holder to withdraw cash. Because their scope is fundamentally limited, store gift cards are not considered cash equivalents and could be accepted by TSA.
- G. Real Property Interest: As used in this directive, the right to exclusively possess a building, land, office space, etc., including a range of ownership options from outright ownership (in fee simple) to no cost leases. It does not include permission (e.g., a license) to use space also available to others.
- H. Senior Management Officials: As used in this directive, the DHS Assistant Secretary (also referred to as the Administrator), the Deputy Assistant Secretary (also referred to as the Deputy Administrator), the Special Counselor, the Chief Counsel, and each Assistant Administrator.
- I. Travel Related Gifts: Gifts involving travel and transportation not covered by 31 U.S.C. § 1353

and TSA MD 1000.8.

5. RESPONSIBILITIES:

A. Assistant Administrator for the Office of Finance and Administration (AA/OFA)/Chief Financial Officer (CFO) is responsible for:

- (1) Administering the TSA Gift Acceptance Program.
- (2) Accepting or rejecting all gifts involving the transfer of a real property interest, other non-monetary gifts having a fair market value in excess of \$10,000, and gifts of a lower value - the acceptance of which raises significant legal or policy (e.g., political, ethical, appearance) concerns.

B. Senior Management Officials are responsible for:

- (1) Accepting non-monetary gifts (except gifts of real property interests) having a fair market value of \$10,000 or less, where acceptance is clearly in the best interest of TSA.
- (2) Rejecting non-monetary gifts of any value when acceptance is clearly not in the best interest of TSA (*see* Section 6D).
- (3) Referring gifts involving the transfer of a real property interest, other gifts offers of a value in excess of \$10,000, and other gifts that raise significant legal or policy concerns, to the AA/OFA along with a description of the offered gift, advantages and risks of acceptance, and a recommendation for acceptance or rejection.
- (4) Delegating, if desired, the authority set out in (1) through (3) above to no more than one senior subordinate official under his or her authority.

C. Office of Security Operations, Regional Directors are responsible for:

- (1) Accepting non-monetary gifts (except gifts of real property interests) having a fair market value of \$2,500 or less where acceptance is clearly in the best interest of TSA.

NOTE: Except for the acceptance of gifts of transportation, this authority may be delegated, in whole or in part, to the Federal Security Directors (FSDs), who may not further re-delegate.

- (2) Rejecting non-monetary gifts of any value when acceptance is clearly not in the best interest of TSA.
- (3) Referring gifts involving the transfer of a real property interest, other non-monetary gift offers of a value in excess of \$2,500, and other gifts that raise significant legal or policy concerns, to the Assistant Administrator for the Office of Security Operations (\$10,000 or less) or AA/OFA (in excess of \$10,000), along with a description of the offered gift, advantages and risks of acceptance, and a recommendation for acceptance or rejection.

D. Office of Chief Counsel (OCC) is responsible for:

- (1) Reviewing, through OCC Field Counsel, all gift offers of a value of \$2,500 or less to be accepted by an FSD in those cases where the FSD is exercising delegated authority from the Regional Director to accept or reject gift offers. Field Counsel's review will, at a minimum, consider any and all legal issues that are presented, as well as policy and procedural matters. (*see* Sections 6 and 7) As they deem appropriate, Field Counsel should coordinate with TSA Headquarters Counsel about acceptance of the gift.
- (2) Reviewing through HQ OCC General Law Division, gift issues referred from the field and all other gift offers presented to a Regional Director, Senior Management Official, or AA/OFA for acceptance.

E. Deputy Assistant Administrator for the Office of Finance and Administration (DAA/OFA) is responsible for:

- (1) Coordinating and advising on all offers of interest in the transfer of real property.
- (2) Accounting for all gifts in accordance with TSA MD 200.57 when notified of an approved gift acceptance.

F. Property Custodians are responsible for properly accounting for tangible personal property received in accordance with TSA MD 200.57.

6. POLICY:

A. Solicitation: TSA personnel will not request gifts for themselves, their official activities, or for TSA as an agency. However, in response to general offers or inquiries from potential donors, TSA personnel may explain TSA's gift acceptance policy or identify particular agency needs to assist the donor in choosing the best possible donation. TSA personnel may otherwise cooperate with donors to ensure that gift offers are accepted and used in a manner that maximizes the benefit of the gift.

B. Documentation:

- (1) General: All gift offers and acceptances must be documented in writing, stipulating the donor's intent to make a gift to TSA, along with a complete description of the intended gift and any conditions on the acceptance.
 - (a) For gifts of a fair market value of \$2,500 or more, the attached sample letters (Attachment 1, *Sample – Letter of Offer of Gift*, and Attachment 2, *Sample – Letter of Acceptance of Gift*) are required.
 - (b) For gifts of a fair market value less than \$2,500, the written documentation may be documented more informally, such as an exchange of e-mails, an internal memorandum for record, a handwritten receipt, or similar documents (ref. Attachments). However, the appropriate Gift Acceptance Authority must still review the offer and decide on agency acceptance.

- (c) All documents shall be maintained by the Gift Acceptance Authority or as otherwise directed by the Property Custodian. For monetary gifts subject to conditions, additionally, TSA must use DHS Form 112-02 to document the offer and concurrence from OCC Ethics and review from the DHS Office of General Counsel.
- (d) A copy of all documents related to gift offers whether accepted or rejected; personal, real, or monetary must be provided to the Property Management Division (PMD) at TSA-Property@tsa.dhs.gov
- (e) All documentation should include a statement of the estimated fair market value of the gift offer and the basis for making that estimation.

(2) Timing:

- (a) Prepare written documentation in advance of delivery of the gift, whenever possible, and always prepare the document(s) before official acceptance.
- (b) If TSA assumes custody of a tangible gift valued at \$2,500 or more before actual acceptance, the donor must be informed, in writing, that TSA cannot assume responsibility for any loss or damage to the gift before it is officially accepted.
- (c) Services are considered received when rendered. Gifts of services must be approved prior to being rendered (to avoid potential claims against the government).

(3) Authority:

- (a) Offers from a company, for-profit or nonprofit organization, or other entity may require accompanying documentation, which demonstrates or establishes the donor's authority to make the gift on behalf of the entity.
- (b) Address any questions on property ownership to OCC, as other legal documents may also be required.

(4) Legal Review: All gift offers, regardless of value, shall be reviewed by OCC.

C. Consideration of Acceptance:

NOTE: For gifts from any entity regulated by TSA, see the additional gift acceptance criteria in Section 6E. For monetary gifts subject to conditions, see the additional documentation required in 6B.

- (1) Gifts should ordinarily be accepted unless acceptance would not be in the best interest of TSA; however,
- (2) Gifts should be rejected, under the following circumstances:
 - (a) When acceptance may arguably be in the interest of TSA, but would otherwise be contrary to law (e.g., a commercial airline's offer to provide personnel to conduct security compliance inspections). When the offered item is unacceptably dangerous (e.g., an electrical device that sparks or a gas heater with inadequate safety features).

- (b) When acceptance of the gift would raise a serious question of impropriety in light of the donor's present or prospective business/regulated relationship with TSA. For example, a prospective TSA contractor offers a gift to TSA in advance of a contract award; a regulated entity offers valuable tickets to a sporting event to senior officials while an important decision is pending.
 - (c) When acceptance would not be in the best interest of TSA.
 - (d) When the conditions imposed render the gift unsuitable for use (e.g., screening equipment offered for use only in an airport area where no TSA screening occurs).
- D. Additional Considerations: Conflicts of interest, or their appearance, can result when TSA regulates a potential donor (e.g., State and Local government authorities, airlines, trucking and railroad companies, and associations comprised of such entities), whether regulated directly or indirectly.
- (1) Gifts from Regulated Entities: A gift from a regulated entity will not be accepted if the Gift Acceptance Authority determines, in consultation with OCC, that acceptance under the circumstances would cause a reasonable person with knowledge of all the facts to question the integrity of TSA's programs or operations. In making this determination, all relevant factors will be considered including, but not limited to the:
 - (a) Identity of the donor and relationship (if any) to TSA oversight and/or operations.
 - (b) Conditions, if any, on acceptance of the gift.
 - (c) Nature and sensitivity of any matter pending before TSA that affects the interests of the donor.
 - (d) When the gift involves transportation, the availability and cost-effectiveness of Government or commercial transportation and the expected frequency of the offered transportation.
 - (e) When the donor is a State instrumentality, the effect on Federal-State cooperation.
 - (f) Whether acceptance of the gift is in TSA's interest because the benefits relating to the acceptance or rejection of the gift outweigh the appearance of a loss of impartiality on the part of TSA in its dealings with the donor.
 - (2) Compensation: In close or questionable cases, the Gift Acceptance Authority shall consider whether any actual or perceived conflict of interest may be eliminated by reimbursing the donor the reasonable, mutually-agreed value of the gift. If a determination is made that reimbursement is the best course of action, the Gift Acceptance Authority shall forward the action to a contracting officer, who has authority to make a binding financial obligation.
 - (3) Free Transportation or Other Tangible Services or Items: Gifts falling within these descriptions and such issues involving offers of payment of other costs related to official travel (e.g., travel to a conference, seminar, speaking engagement, symposium, training course, or similar event) are governed by TSA MD 1000.8. If TSA MD 1000.8 applies to the offer of travel reimbursement, then use that MD to process the offer for agency acceptance.

(4) Gifts from Foreign Governments:

- (a) Gifts from foreign governments to TSA that do not involve travel reimbursement are handled in accordance with GSA Federal Management Regulation (FMR), 41 CFR 102-42, which establishes the policies and procedures governing the acceptance of gifts and decorations received from foreign sources. For further guidance see TSA's Personal Property Management Manual (PPMM).
- (b) Gifts from foreign governments that involve travel reimbursement are usually handled in accordance with TSA MD 1000.8.

(5) Advice to Donors Concerning Tax Benefits:

- (a) TSA personnel will not advise a donor regarding the tax consequences of making a gift to TSA.
- (b) TSA personnel will not place any value on a gift that a donor might offer to gain a tax benefit.
- (c) All offers and acceptances will reflect actual, correct dates of action to preclude any manipulation of the transaction for tax purposes.

E. Real Property Interest: All offers of interests in real property must be coordinated with the Office of Finance and Administration, Real Estate Management Division. Any legal questions concerning real property interests should be directed to HQ OCC – Procurement Division.

7. PROCEDURES: Please reference the PPMM on [PMD's Personal Property, Policy and Compliance Branch's iShare page.](#)

8. **APPROVAL AND EFFECTIVE DATE:** This policy is approved the date of signature unless otherwise specified.

APPROVAL

Signed

August 29, 2016

Pat A. Rose, Jr.
Assistant Administrator for Finance and
Administration/Chief Financial Officer

Date

EFFECTIVE

Date

Distribution: TSA Employees
Point Of Contact: Property Management Division, TSA-Property@dhs.gov

ATTACHMENT A

SAMPLE – Letter of Offer of Gift

[Date]

[Gift Acceptance Authority]
[Address]
[City, State, ZIP]

Dear [Gift Acceptance Authority]:

I, _____, on behalf of [the Name of Company], the legal owner of the property listed below, do hereby voluntarily give, transfer, convey, and assign said property, free and clear of all encumbrances, at no cost to the Transportation Security Administration, to have and to hold the same forever, hereby relinquishing for myself, my executors, administrators, heirs and assigns all ownership, rights, title, interest and possession therein to the donee absolutely: [Description of Property)].

- OR -

I, _____, having the legal authority to direct the services be provided, do hereby voluntarily offer to provide at no cost to the Transportation Security Administration: [Description of Services].

This offer is conditioned upon [Enter Terms and Conditions of the Offer].

Sincerely yours,

[Donor]

NOTE: Fill in appropriate information required in noted brackets.

NOTE: Add note to include appropriate cite to the DHS authority when accepting a monetary gift under the MD

This letter must ordinarily:

- (1) Describe the property briefly but completely enough to make the gift readily identifiable.*
- (2) Declare that the donor has the authority to make the gift*
- (3) Actually offer the gift.*
- (4) Clearly state any conditions.*
- (5) Be signed.*

ATTACHMENT B

SAMPLE – Letter of Acceptance of Gift

[Date]

[Donor Name]
[Donor Company]
[Address]
[City, State, ZIP]

Dear [Donor Name]:

On behalf of the Transportation Security Administration, I am pleased to accept [(your) or (Donor Company's)] offer of [Date of Offer] to donate [Description of Item or Service Donated]. I hereby accept this gift under the provisions of Title 49, U.S. Code, sections 114(m) and 106(m), subject to [Enter Terms and Conditions of the Offer].

Please accept my sincere appreciation for this most generous and thoughtful gift.

Sincerely yours,

[Gift Acceptance Authority]

NOTE: Fill in appropriate information required in noted brackets.

This letter must ordinarily:

- (1) Acknowledge receipt of the offer of gift.*
- (2) Describe the property briefly but completely enough to make the gift readily identifiable.*
- (3) Actually accept the gift. (Advise where the donor may send the gift, when appropriate.)*
- (4) State that the gift is accepted under Title 49, U.S. Code, sections 106(m) and 114(m).*
- (5) Express sincere appreciation for the gift.*
- (6) Be signed.*

Cc: Property Management Division, TSA-17